

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KOLO, LLC,

Plaintiff,

07 CIV. 10653

-against-

KATE'S PAPERIE, LTD.,

JUDGE: McMAHON

Defendant.

**AFFIRMATION IN OPPOSITION TO
DEFENDANT'S PARTIAL MOTION TO DISMISS**

ROBERT VARGA, an attorney duly admitted to practice law before the Courts of the State of New York and before this Court, affirms the following under the penalties of perjury:

1. I am associated with the law firm of GOLDBERG SEGALLA LLP, attorneys for Plaintiff, Kolo, LLC, and as such, I am fully familiar with the facts and circumstances surrounding this action.
2. I submit this Affirmation in Opposition to Defendant's Partial Motion to Dismiss Counts I, II, III, IV, and IX of the Complaint.
3. The relevant facts are set forth in the Affidavit of Keith Werner, sworn to on January 22, 2008, which is made part of this opposition.
4. Additionally, Plaintiff submits its Memorandum of Law in Opposition to the Partial Motion to Dismiss.

For all of the reasons set forth in the aforementioned documents, Defendant's Partial Motion to Dismiss should be denied.

Dated: White Plains, New York
January 22, 2008

Respectfully submitted,

By: _____



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **AFFIRMATION IN OPPOSITION TO DEFENDANT'S PARTIAL MOTION TO DISMISS, AFFIDAVIT OF KEITH WERNER WITH EXHIBITS, AND MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT'S PARTIAL MOTION TO DISMISS** were served via the Court's ECF system on this 22nd day of January, 2008, upon:

David S. Versfelt, Esq.
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